

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A.J.D., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MISCHELLE DESMONE,

Respondent-Appellant.

UNPUBLISHED

August 18, 2005

No. 260897

Macomb Circuit Court

Family Division

LC No. 01-051559-NA

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (j), and (m). We affirm.

The trial court did not clearly err in finding that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence, MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000), or in finding that the evidence did not show that termination was not in the child's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 354.

The child at issue in this case was removed at birth because of emotional and environmental neglect, failure to support, substance abuse, and parenting issues. During the proceedings, respondent complied with several terms contained in her court-ordered parent/agency agreement, including attending parenting classes, participating in a psychological evaluation, obtaining suitable housing, submitting to drug screens, completing substance abuse treatment, attending NA meetings, remaining sober throughout the proceedings, visiting regularly with the child and participating in extensive services to improve her parenting ability. Despite her efforts and extensive services to assist her with parenting, however, the testimony showed that, by the time of the termination proceedings, respondent's parenting ability had not improved sufficiently to insure that the child would be safe and/or properly cared for if returned to respondent's custody. We find significant that every service provider who assisted respondent with parenting throughout these proceedings expressed concern about whether respondent had the ability and/or motivation to properly care for or nurture the child and that the visits remained problematic regarding respondent's interactions with the child, safety issues and her ability to

adequately address the child's needs. Respondent's lack of progress towards improving her parenting ability, despite extensive services and efforts over a lengthy period of time, considered with the tender age of the child (he was nineteen months old at the time of the termination proceedings and had been in foster care since birth), provided clear and convincing evidence that she would not likely benefit from further services to rectify her lack of parenting ability within a reasonable period of time. Although there was conflicting evidence in the record showing that, at times, respondent interacted appropriately with the child and respondent testified that she was ready and able to parent the child, the testimony overwhelmingly established that overall, respondent's interactions with the child and her parenting ability remained deficient throughout the proceedings.¹

Further, the evidence did not mitigate against termination. *In re Trejo, supra* at 356-357. Respondent's significant efforts throughout the proceedings demonstrated her desire to reunify with her child. However, the evidence also showed that the visits were problematic for the child and there was a lack of bond between respondent and the child.² Moreover, the evidence, most notably the testimony of every service provider, showed that respondent failed to improve her parenting ability during the proceedings to enable her to appropriately parent the child. Although commendable, respondent's efforts towards complying with her parent/agency agreement, did not "clearly overwhelm" her apparent lack of parenting ability. *In re Trejo, supra* at 364. Therefore, the trial court did not clearly err in terminating respondent's parental rights. *In re Trejo, supra* at 356-357.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens

¹ Although not addressed by respondent on appeal, the trial court also did not clearly err in finding grounds for termination under MCL 712A.19b(3)(m). Respondent's older child was removed from her care because of physical neglect, and respondent thereafter voluntarily released her parental rights to her older child. The trial court terminated her rights to the older child less than one month before the birth of the child at issue in this case.

² Although a worker, who assisted respondent for ten weeks in 2003, observed an increase in bonding between the child and respondent, the caseworker, who serviced respondent during the proceedings, the ARC Services worker, who assisted respondent for six months in 2004, and the foster mother, who was present during the visits, all testified that they observed a lack of a bond between the child and respondent.